

tion. In each of the stations the defendant maintains one physician, licensed, and these doctors are employed by the corporation on a straight salary, and are paid a small bonus if the company makes a profit from his particular station. The evidence further shows that the corporation confines its activity to purely and entirely industrial cases. The defendant corporation has no nurses at its branches and the only nurse is at the main office. The doctors are at all times employed by the company and the physician and surgeon gives all his time to the defendant corporation. All of the doctors are required to report to a chief surgeon, Doctor Nelson, at the head office. The corporation makes a charge for the services rendered by the doctor whenever a case is closed. The doctor himself makes no charge and the doctors at various stations are not permitted to treat any private cases of their own, and only do the work of the corporation. This is a brief summary of the important facts of the case.

✓ ✓ ✓

This unquestionably is a case of first impression in the State of California, being a proceeding by the Attorney General to cancel and annul the franchise of this defendant corporation for the reason that they have violated a law of the State of California and engaged in a business as a corporation which it is unlawful to do.

✓ ✓ ✓

The court concludes that the acts enumerated and done by the defendant corporation constitute practicing a system of medicine, or mode of treating the sick and afflicted in this state, within the meaning of the Medical Practice Act, and, therefore, is in violation of law.

Several other important questions are involved, to wit:

1. Whether or not such a holding affects hospitals and charitable institutions now in existence which are corporations.

Clearly this rule would not in anywise affect hospitals and infirmaries which are not practicing medicine, but are independent of the practice of medicine and surgery, nor are most of those institutions profit-sharing institutions and practicing for profit, while the defendant corporation is, and there is no analogy between the present case and the case of hospitals or other private corporations.

2. The fact that the Workmen's Compensation Act compels all employers to furnish medical and surgical aid to the injured in the course of their employment does not offer any reason for a corporation to engage in the practice of medicine. It only requires that they furnish medical aid of a physician and surgeon, and it is not necessary to form a corporation to furnish a physician and surgeon for medical aid.

If, in the last analysis, corporations are allowed to practice medicine as a general proposition, it is the opening wedge to the commercialization of the practice of the learned profession of medicine, and permits the creeping in of many unethical and uncontrollable factors which the law has heretofore rigidly sought to avoid.

One of the main objections to allowing a corporation to practice medicine would be unquestionably the inability of the state to control the practice of medicine by a corporation as it does control it now under the Medical Practice Act, as each member of the profession comes directly under the Medical Practice Act and the corporation herein does not. Unprofessional conduct on behalf of the corporation could not be reached, such as aiding or betraying a professional secret, advertising, or offenses involving moral turpitude, and many others too numerous to mention.

Unquestionably, if the corporation does not come within the provisions of the Medical Practice Act, it would be immune from its penalties or provisions; therefore it is important to the welfare of the people of the State of California, and hence the importance of the prohibiting of a corporation from practicing

medicine as a corporation and engaging in that business through its agents for profit.

SAMUEL R. BLAKE, *Judge*.

Attorneys for plaintiff:

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Attorneys for defendant:

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## TWENTY-FIVE YEARS AGO \*

### EXCERPTS FROM OUR STATE MEDICAL JOURNAL

Vol. III, No. 11, November 1905

From some editorial notes:

*The Meeting Next Year.*—The next annual session of the state society, to be held in San Francisco, April 17 to 19, 1906, will mark the beginning of the second fifty years of its existence. . . .

*Collier's on Nostrums.*—In its issue for October 7, *Collier's Weekly* began the series of articles by Mr. Adams, revealing the inside rottenness of the nostrum fraud, not only as affecting the general public, but also as it concerns the nostrums exploited to and through the medical profession. These articles should be read by every physician who takes the slightest interest in his profession or in professional decency. . . .

*The Ones Enmeshed.*—In this article Mr. Adams mentions a few of the rank nostrums which, through the medium of the dirty dollars they pay to medical journals for the purpose of aiding in defrauding the medical profession and the sick by means of advertisements, reading notices, and paid-for "original" articles, have been prominent in debauching the profession and enmeshing the medical press in this tight-drawn net of fraud. . . .

*Peptomangan.*—We take great pleasure in publishing elsewhere in this issue of the journal some matter from the *Journal of the American Medical Association* concerning the "proprietary" known as "\_\_\_\_\_," —but not "good." The garbled and distorted extract from the report of the Porto Rico Commission has been appearing with regularity in the various representatives of the subsidized medical press of this country, and doubtless a number of honest and confiding physicians have been fooled into believing it. What shall we say of a manufacturer whose love for the medical profession is so great that he will sink to this sort of misrepresentation (to use no harsher word)? . . .

. . . The dirty money of the unscrupulous manufacturer will do almost anything; it will buy any amount of space in so-called medical journals, and it will enable the spender to present any old lie disguised as plausible truth to the medical profession.

*Doctor McCormack's Addresses on Organization.*— . . . In other professions the members are much more harmonious; they dwell together in charity. Why is this? . . . Doctors but seldom come in contact with each other in the discharge of their professional work. Each one has a certain following which considers him about the best of his kind, and in due course he begins to be possessed of the same idea and to regard his fellow practitioners as rather below him. . . .

. . . Only by coming into personal contact at frequent intervals can medical men really know and appreciate each other, and as their occupation does not bring them together in the regular performance of their professional duties, this end should be secured by frequently meeting together in societies. . . .

\* This column strives to mirror the work and aims of colleagues who bore the brunt of state society work some twenty-five years ago. It is hoped that such presentation will be of interest to both old and recent members.

... In the legal profession, we almost never see serious dissension. . . . A lawyer's work brings him constantly into contact and association with other lawyers; his whole life work is a postgraduate education; every trial is a clinic; his education is of necessity and by virtue of the very nature of his calling, constantly uppermost, even though unconsciously so. The lawyer meets his kind every day that he practices his profession; he learns to appreciate his own weaknesses and other men's strength; his mind broadens from day to day and from year to year; he does not lead an isolated life. . . .

*From an article on "A Case of Pseudohypertrophic Muscular Dystrophy" by Langley Porter, M. D., San Francisco.*

D. M., aged seven years eight months, was brought to me six months ago on account of weakness in the legs, and bronchitis. . . .

*From an article on "Anesthesia in Ear, Throat, and Nose Operations" by William A. Martin, M.D., San Francisco.*

The relative safety of the various anesthetics used in the different operations on adenoids and tonsils is one almost impossible to arrive at. In the first place, all anesthetics are dangerous unless administered by a safe man; and, furthermore, all anesthetics are dangerous unless pure and fresh. . . .

## CALIFORNIA BOARD OF MEDICAL EXAMINERS

By CHARLES B. PINKHAM, M. D.  
Secretary of the Board

### News Items, November 1930

According to reports, Galen F. Maher, licensed chiropractor, was recently arrested in Santa Rosa on a charge of violation of the Medical Practice Act, investigation report stating that he is alleged to have been advertising that he would remove moles, warts, skin cancers, etc., and that with electricity he desiccated the tonsils of the complaining witness. It is reported his defense is that he may practice anything taught in chiropractic schools and colleges.

"Sixty-three American doctors were ordered expelled from Budapest Hospital today in a resolution adopted by the City Council in compliance with a demand from the radical press that they be forbidden to practice in Hungary. The doctors have been studying in the largest hospitals here under world-famous surgeons. In all cases the Americans came for special work and practice in surgery here, where patients are more numerous and operations may be performed with fewer restrictions than in most American cities . . ." (Consolidated Press dispatch dated Budapest, October 3, printed in the San Francisco *Chronicle*, October 4, 1930).

"For the second time in two years the State Board of Medical Examiners' net for alleged quack doctors has captured 'Dr.' Howard L. Musick, self-claimed 'wonder man' and manufacturer of a patent remedy which he asserts will cure all ills. He was arrested yesterday at his 'laboratory' by Special Agent William A. Byrne of the medical board, after Police-woman Mary Ross and Special Investigator Helen Jones, posing as patients, declared he had diagnosed their 'ills' and prescribed potions of his 'cure-all' as a remedy. . . . Musick was arrested in the midst of yesterday afternoon's consultation with patients. Fully thirty patients—most of them aged—were awaiting audience with him when the officers arrived. . . . Musick was arrested on similar charges two years ago, but was later acquitted by a jury. It was declared at his trial he had made more than \$3,000,000

from the sale of his remedy over a period of five years . . ." (Los Angeles *Examiner*, September 18, 1930). The investigation report relates that in checking up on the business done by him (Musick) it was found that "in the past year Musick had purchased from the Western Drug Company 2,850,000 capsules and 8000 pounds of material, which included 2400 pounds of sulphur, 1900 pounds of aloes, 2700 pounds of cream of tartar, and 1000 pounds miscellaneous. As Musick sells twenty capsules for \$1, it is easy to figure the amount that he has taken in in one year, which, figuring working days only, amounts to \$450 per day."

"Charged with violation of the Medical Practice Act by professing to treat tuberculosis without a medical license, Dr. John P. Shepherd of the Hillside Sanitarium was arrested here today by J. W. Davidson, Special Agent of the State Board of Medical Examiners. According to Davidson, Shepherd claims to have been graduated from the University of Toronto and Jefferson Medical College, but a search of the records of these two institutions has failed to substantiate these claims. . . . Shepherd was arrested several months ago on a similar charge preferred by Davidson. He paid a \$250 fine at that time . . ." (Santa Rosa *Republican*, September 22, 1930). John P. Shepherd testified under oath before the Board of Medical Examiners at its meeting held in San Francisco July 8, 1930, and in response to the question as to the medical college from which he graduated, replied: "I think that was from the University of Toronto." He was then asked the question as to whether it was not usually customary for a man who graduated from a medical school to know when and where he graduated, to which Shepherd answered, "I suppose so, yes." The University of Toronto relates they find no record of such a man having graduated. The State of Indiana reports that a John Shepherd was licensed in that state many years ago on the basis of having practiced in Indiana before the Medical Practice Act was passed and they have no record that Shepherd was then the possessor of a medical diploma. It is further related they have no means of knowing whether John P. Shepherd of Santa Rosa is the same individual licensed to practice in Indiana. Special Agent Davidson reported that when he asked Shepherd if he (Davidson) might see Shepherd's Indiana license, Davidson was informed that Shepherd's attorney in Sacramento had it, but he could not think of the name of his attorney. The American Medical Association has furnished information relative to the activities of a John P. Shepherd, formerly located in Chicago and Arizona, they having no record of his having attended a medical school. Information from Indiana relates the difficulties in 1901 of a Dr. John Shepherd, then reported as assistant postmaster at New Brunswick, Boone County, Indiana.

"Dr. William C. Fiske, seventy, Hermosa Beach physician, charged in a grand jury indictment with murder, is scheduled to return to Superior Judge Walton Wood's court to enter a plea to the charge next Tuesday. The aged physician is held responsible for the death of Vera Nelson, twenty-two, who assertedly died in his office after an illegal operation. Judge Wood ruled that the defendant be admitted to \$10,000 bail when he came before the court for arraignment" (Los Angeles *Record*, October 3, 1930).

Lou Wing, alias Lou Sun, Chinese herb doctor, may not peddle his "cures" through Uncle Sam's mails. Federal chemists who have examined herbs dispensed by Lou Wing found no curative medicine. Word to this effect was received yesterday by the State Board of Medical Examiners (San Francisco *Examiner*, September 16, 1930). This herb company is known to the Investigation Department of the Board of Medical Examiners as Lau Yit Cho, alias Low Sun, who on July 27, 1927, pleaded guilty in San Francisco and paid a fine of \$300 for violation of the Medical Practice Act.